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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/647,262

08/26/2003

Brian Harden

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07/13/2007

DIGITAL OPTICS CORPORATION

C/O LEE & MORSE, P.C.

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EXAMINER

VARGOT, MATHIEU D

ART UNIT

PAPER NUMBER

1732

MAIL DATE

DELIVERY MODE

07/13/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/647,262

Applicant(s)

HARDEN ET AL.

Examiner

Mathieu D. Vargot

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-30,38,41-46 and 51-64 is/are pending in the application.
- 4a) Of the above claim(s) 28-30,38,46,51-60,63 and 64 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-27,41-45,61 and 62 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 6/14/07.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

1.Applicant's election with traverse of Species A in the reply filed on May 4, 2007 is acknowledged. The traversal is on the ground(s) that since all the claims had been examined in the first action, there was no burden on the examiner to examine all the instant claims. This is not found persuasive because applicant's amendment made a number of the dependent claims into independent claims, and these were/are submitted to constitute separate species of the invention. Also, it should be noted that dependent claims 28-30, 46, 51 and 52 also belong to the non-elected species and hence these claims have also been withdrawn as non-elected.

The requirement is still deemed proper and is therefore made FINAL.

2.The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15-27, 41-45, 61 and 62 are rejected under 35 U.S.C. 103(a) as being obvious over Napoli et al (see col. 2, lines 26-33; col. 2, lines 42-51; col. 3, lines 55-59 and 60-68; col. 4, lines 13-15; col. 4, lines 28-29) in view of Chou (see col. 1, lines 9-11; col. 5, lines 42-64; col. 6, lines 31-67; Fig. 9).

Napoli et al discloses the basic claimed process of making structures on a wafer lacking essentially the aspect that the structures would constitute "individual optical elements". See the above-noted passages. Chou teaches forming "integrated optical... circuits" (see col. 1, line 10) by a similar lithographic process on a wafer and teaches that a

plurality of elements 32 are formed—see column 5, line 59. These elements would obviously have utility as optical devices. It certainly would have been obvious to one of ordinary skill in the art to extend the processing taught in Napoli et al to include optical elements as generally taught by Chou dependent on the exact final article desired.

Except for the aspect of the individual optical elements, Napoli et al discloses the subject matter of instant claims 20, 22, 24, 25, 42, 43, 45 and 61. It is submitted that applying the thin film to the mold first would have been an obvious modification to the process of Napoli et al. It is well known in the art to transfer coatings to substrates by either coating the substrate (as in the applied references) or coating the mold and then performing the transfer when the coating is molded. Napoli et al (col. 4, line 29) teaches baking the coating to ensure its adherence to the substrate and the instant adhesion promoter of claim 17 is conventional and obvious thereover. Chou also teaches the aligning of instant claims 18 and 27.

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In view of the amendments to the claims, new art has been applied which renders the instant claims obvious. Needless to say, Napoli et al and Chou employ substantially planar molds and pattern a thin film in a manner that renders the instant claims obvious.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See

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MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

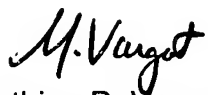
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot  
July 7, 2007

  
Mathieu D. Vargot  
Primary Examiner  
Art Unit 1732

7/7/06